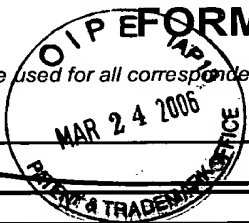



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HDP/SB/21 based on PTO/SB/21 (08-00)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing) 	Application Number	09/503,096
	Filing Date	February 11, 2000
	Inventor(s)	Katherine G. AUGUST et al.
	Group Art Unit	2135
	Examiner Name	T. B. Truong
	Attorney Docket Number	29250-000524/US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims) <input checked="" type="checkbox"/> Appeal Communication to Group (Notice of Appeal, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Gary D. Yacura	Reg. No. 35,416
Signature			
Date	March 24, 2006		

GDY/DAP:psy



PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants: Katherine Grace AUGUST et al.
Application No.: 09/503,096
Art Unit: 2135
Filed: February 11, 2000
Examiner: Thangha B. Truong
For: METHOD AND SYSTEM FOR CAPTURE OF LOCATION
SPECIFIC MEDIA RELATED INFORMATION AND DELIVERY
THROUGH COMMUNICATIONS NETWORK
Atty Dkt No.: 29250-000524/US
Conf. No.: 6097

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22313

March 24, 2006

Mail Stop Appeal Brief – Patent

APPELLANTS' REVISED BRIEF ON APPEAL UNDER 37 C.F.R. §41.37

Sir:

In response to the Notification of Non-Compliant Appeal Brief dated February 24, 2006, Appellants submit herewith their Revised Brief on Appeal as required by 37 C.F.R. § 41.37.



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BRIEF ON BEHALF OF APPELLANTS

In support of the Notice of Appeal filed on August 29, 2005, appealing the Examiner's final rejection mailed on June 6, 2005 of each of pending claims 1-26 of the present application which appear in the attached claims appendix, Appellants hereby provide the following remarks.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Lucent Technologies, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal. As such, Appellants have omitted the Related proceedings appendix under 37 C.F.R. § 41.37(c)(1)(x).

III. STATUS OF CLAIMS

Claims 1-26 are pending in the current application, with claims 1, 4, 14 and 15 being written in independent form.

Claims 1-26 remain finally rejected under 35 U.S.C. § 103 (a) as being anticipated/taught by Chen et al., U.S. Patent No. 6,314,192 (hereinafter "Chen") in view of Moskowitz, U.S. Patent No. 6,016,476 (hereinafter "Moskowitz").

Claims 1-26 are being appealed.

IV. STATUS OF AMENDMENTS

No amendments have been filed with the Appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention is directed to communications systems and methods for delivering content (e.g., pay-per-view television shows) to subscribers. Conventionally, such

content is delivered to subscribers over a two way communications path.¹ It is typically difficult for distributors (e.g., advertisers) to target particular markets (e.g., local markets) of subscribers with conventional methods.² Features of the claimed invention, which may allow such targeted communication, will now be described with reference to the example embodiment illustrated in Figure 1 of the application (reproduced below).

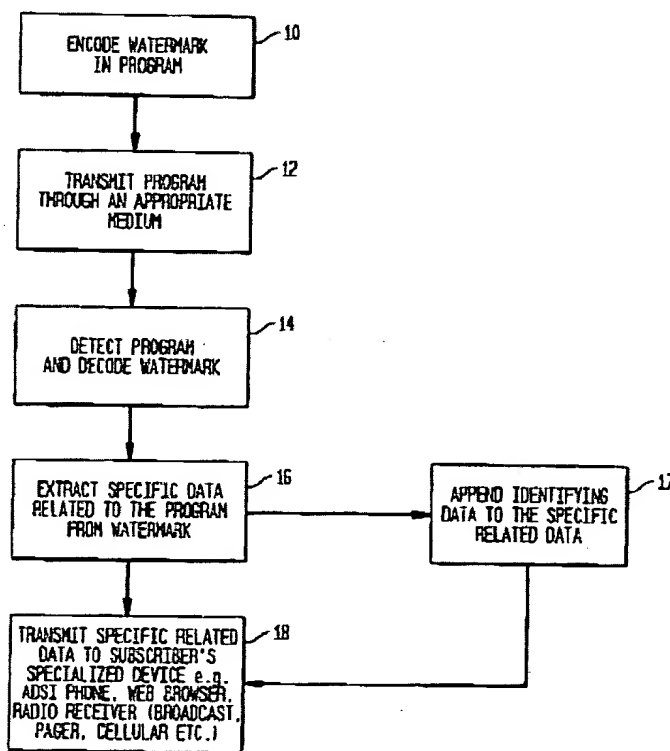


FIGURE 1

Referring to Figure 1, a watermark is embedded in a principal program in step 10.³ For example, if the principal program is a television show, the watermark may be embedded into the television show by a producer of the television show, a TV station broadcasting the television show and/or a re-broadcaster, such as a cable operator.⁴ The watermark is an electrical signal encoded within the signal of the transmitted program, which is imperceptible to the human eye and/or ear.⁵ Various watermark encoding schemes are well-known in the art and will not be described further for the sake of brevity.

¹ See page 1 of the Specification of the present application.

² See page 2 of the Specification of the present application.

³ See page 6 of the Specification of the present application.

⁴ See page 6 of the Specification of the present application.

⁵ See page 6 of the Specification of the present application.

Referring again to Figure 1, the principal program including the embedded watermark is transmitted through an appropriate medium (e.g., a wire interface, a wireless interface, etc.) in step 12.⁶ For example, the principal program may be transmitted by a tower to a television or radio receiver.⁷ A receiving station receives the transmitted principal program and extracts or decodes the watermark from the received principal program in step 14.⁸ The extracted watermark may include specific data related to the principal program or may alternatively include a pointer to a location (e.g., in a database) where the specific data may be located.⁹ Once the specific data is obtained based on the extracted watermark (e.g., either directly or indirectly via a pointer), the specific related data may be transmitted directly to one or more subscribers in step 18. Alternatively, in step 18, the specific related data may be appended to other data (including origination information) and the combined data may then be sent to the one or more subscribers. It will be appreciated that advertisers may use the identifying information to associate the specific related data with particular target markets.¹⁰

Thus, a watermark may be embedded in a principal program (e.g., step 10 of Figure 1) and the principal program including the embedded watermark may be first transmitted to one or more subscribers (e.g., step 12 of Figure 1). The embedded watermark may be decoded to determine specific related data to be transmitted to the one or more subscribers (e.g., step 14 of Figure 1). The specific related data may include, for example, an offer or advertisement to the one or more subscribers, a telephone number, a worldwide web address, etc. The specific related data may then be transmitted, in response to the decoded watermark, to the one or more subscribers through a communications network. Figures 2 and 3 illustrate alternative example embodiments of the above-described example embodiment of Figure 1.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellants seek the Board's review of the rejection of claims 1-26 under 35 U.S.C. § 103 (a) as being anticipated/taught by Chen in view of Moskowitz.

⁶ See page 9 of the Specification of the present application.

⁷ See Figure 4 of the present application.

⁸ See page 9 of the Specification of the present application.

⁹ See page 10 of the Specification of the present application.

¹⁰ See page 11 of the Specification of the present application.

VII. ARGUMENTS

A. **Claims 1-26 are not unpatentable over the combination of Chen in view of Moskowitz under 35 U.S.C. § 103 (a)**

As claims 1, 4, 14 and 15 are allowable for features which are present in each claim, the arguments hereafter are directed to each of claims 1, 4, 14 and 15, with claims 2-3, 5-13, and 16-26, dependent upon independent claims 1, 4, 14 and 15, respectively, rising and falling together.

i. **Claims 1, 4, 14 and 15**

Each of independent claims 1, 4, 14 and 15 recite one of a transmitting and delivering step which is triggered in response to information extracted or decoded from a watermark in a signal. The Examiner alleges that Chen discloses the claimed responsive transmitting step with reference to column 1, lines 34-38.¹¹ However, Appellants respectfully submit that the Examiner is mischaracterizing the cited portion of the Chen patent.

Chen fails to teach claimed limitations performed in response to watermark

Column 1, lines 32-38 of the Chen patent states:

Often, such known systems include "coding" functions that embed the watermark signal into the host signal to generate a composite signal, and "decoding" functions that seek to extract the watermark signal from the composite signal. Such functions may also be referred to as transmitting and receiving functions, indicating that the composite signal is transmitted over a channel to the receiver.

As evident from this citation, Chen simply discloses embedding/decoding of a watermark signal, and not "transmitting, in response to said decoded watermark, said specific data related to said principal program to said one or more subscribers through a communications network" as recited in independent claims 1 and 4, or a "delivery means for delivering said specific data related to said principal program to a receiving device associated with said one or more subscribers in response to the decoded watermark" as recited in independent claims 14 and 15.

Chen discloses a system, method and product for information embedding using an ensemble of non-intersecting embedding generators. Specifically, Chen discloses a general

¹¹ See pages 2-3 of the Office Action mailed on June 6, 2005.

method of embedding a watermark, transmitting a signal including the embedded watermark and decoding (e.g., extracting) the embedded watermark from the received signal. Chen does not disclose or suggest any operations performed based on the extracted watermark.

The Examiner alleges that Chen discloses “second transmitting, in response to said decoding watermark, said specific related data to said principal program to said one or more subscribers through a communications network”.¹² Referring to column 1, 34-38 of Chen, the Examiner states that “[s]uch functions may also be referred to as transmitting and receiving functions, indicating that the composite signal is transmitted over a channel to the receiver”.¹³ The “functions” referred to by Chen relate to coding and decoding functions performed when sending and receiving a watermark, respectively.¹⁴ Appellants acknowledge that Chen teaches transmitting an encoded signal including a watermark to a receiver and decoding the signal. However, Chen does not disclose or suggest an operation such as recited in the claims in response to the decoding of the watermark. Namely, Chen does not disclose or suggest “transmitting, in response to said decoded watermark, said specific data related to said principal program to said one or more subscribers through a communications network” as recited in independent claims 1 and 4, or a “delivery means for delivering said specific data related to said principal program to a receiving device associated with said one or more subscribers in response to the decoded watermark” as recited in independent claims 14 and 15.

Moskowitz fails to teach claimed limitations performed in response to watermark

The Examiner combines the Moskowitz reference with Chen for deficiencies of Chen unrelated to transmitting or delivering specific data related to a principal program in response to watermark extractions.¹⁵ In this regard, Appellants agree with the Examiner in that Chen does not explicitly state that the specific data includes at least one of an offer to said one or more subscribers, telephone number, World Wide Web address, coupon and advertisement.¹⁶ The Examiner alleges Moskowitz discloses these particular deficiencies of Chen.¹⁷

¹²See page 2 of the Office Action mailed on June 6, 2005.

¹³*Id.*

¹⁴See column 1, lines 32-38 of the Chen patent.

¹⁵See page 3 of the Office Action mailed on June 6, 2005.

¹⁶*Id.*

¹⁷*Id.*

Moskowitz discloses a method for human assisted random key generation and application for a digital watermark system.¹⁸ Moskowitz discloses an alternative method of encoding and decoding watermark signals but, similar to Chen, remains deficient in disclosing the operations of transmitting or delivering specific data related to a principal program in response to the decoding of the watermark signal. Thus, while Appellants agree with the Examiner in that Chen includes deficiencies in addition to the above-described deficiencies, Appellants respectfully submit that Moskowitz is insufficient in disclosing or suggesting the above-described deficiency of Chen.¹⁹

Therefore, Chen in view of Moskowitz does not render any of independent claims 1, 4, 14 and 15 as obvious.

Examiner mischaracterizes Appellants' admission

The Examiner alleges that "the applicant also admits in the remarks section that Chen does teach the claimed invention (see last three lines of page 8 [of the February 10, 2005 Request for Reconsideration])".²⁰ This statement is simply not true since the section referred to by the Examiner reads "[t]he Applicant acknowledges that Chen teaches transmitting an encoded signal including a watermark to a receiver and decoding the signal" and this acknowledgment of Chen's teachings does not address, for example, the above-described deficiencies of Chen.

Examiner sets forth new rejection related to information extractor

The Examiner has maintained the above-described arguments despite Appellants' previous arguments and issued a final Office Action on June 6th, 2005.²¹ In the "Response to Argument" section of said final Office Action, the Examiner proposed new arguments in support of the Examiner's position that Chen discloses the above-described deficiency.²² Appellants will now explain how the Examiner's new position contains the same deficiencies as above-described with respect to the Examiner's old position.

¹⁸ See Abstract of the Moskowitz patent.

¹⁹ See the arguments made on page 9 of the Request for Reconsideration filed on February 10, 2005.

²⁰ See page 12 of the Office Action mailed on June 6, 2005.

²¹ See page 2 of the Office Action mailed on June 6, 2005.

²² See pages 11-13 of the Office Action mailed on June 6, 2005.

The Examiner refers the Appellants to operations of the information extractor 202 as being read upon by the claimed invention.²³ Chen discusses the functionality of the information extractor 202 substantially within Column 33, lines 16-42 of the Chen patent with respect to Figure 9. This passage of Chen states:

FIG. 9 is a functional block diagram of information extractor 202 of FIG. 2. In the illustrated embodiment, information extractor 202 receives from receiver 125 (via an input device of input-output devices 260B and operating system 220B) received composite signal with noise 105. As shown in FIG. 9, information extractor 202 includes synchronizer 910 that synchronizes signal 105 so that the location of particular portions of such signal, corresponding to portions of transmitted composite signal 103, may be determined. Information extractor 202 also includes ensemble replicator 920 that replicates the ensemble of embedding generators and embedding values that information embedder 201 generated. As noted, such replication may be accomplished in one embodiment by examining a portion of the received signal. In alternative embodiments, the information contained in the quantizer specifier may be available a priori to information extractor 202. The replicated embedding generators of the illustrated embodiment are dithered quantizers, and the embedding values are dithered quantization values. Information extractor 202 further includes point decoder 930 that, for each co-processed group of components of the watermark signal, determines the closest dithered quantization value to selected values of the host signal, thereby reconstructing the watermark signal.

As a review of this passage reveals, the information extractor 202 is well named because it simply extracts information.²⁴ The information extractor 202 is responsible for extracting or decoding information present in a watermark signal, not performing transmission or delivery of specific data related to a principal program in response to said decoded information.²⁵ The Examiner appears to indicate the synchronization of the composite signal is performed in response to the decoded/extracted information from the watermark.²⁶ However, the synchronization of portions of the composite signal is performed in order to correctly extract/reconstruct the watermark, and as such is performed before the watermark signal is decoded/extracted.²⁷ Appellants again cannot understand how Chen can disclose operations performed in response to a decoding operation if the alleged operations occur before the decoding.

Therefore, Chen in view of Moskowitz does not render any of independent claims 1, 4, 14 and 15 as obvious.

²³ See page 12 of the Office Action mailed on June 6, 2005.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See page 12 of the Office Action mailed on June 6, 2005.

²⁷ See column 33, lines 16-42 and Figure 9 of the Chen patent.

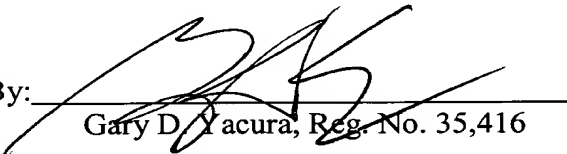
VIII. CONCLUSION

Appellants respectfully request the Board to reverse the Examiner's 35 U.S.C. § 103 rejection of claims 1-26 as being obvious with respect to Chen in view of Moskowitz.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By: 
Gary D. Yacura, Reg. No. 35,416

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Attachment: IX. Claims Appendix
X. Evidence Appendix
XI. Related Proceedings Appendix

IX. CLAIMS APPENDIX

1. (Previously Presented) A method for delivering specific data related to a principal program, to one or more subscribers receiving said principal, program, said method comprising:

embedding a watermark within said principal program, first transmitting said principal program with the embedded watermark to said one or more subscribers;

decoding said embedded watermark to determine the specific related data to be transmitted to said one or more subscribers, the specific related data including at least one of an offer to said one or more subscribers, telephone number, World Wide Web address, coupon, and advertisement; and

second transmitting, in response to said decoded watermark, said specific data related to said principal program to said one or more subscribers through a communications network.

2. (Original) The method of claim 1 wherein said decoding step further comprises decoding said watermark at a receiver located at said one or more subscribers.

3. (Previously Presented) The method of claim 1 wherein said decoding step further comprises the steps of:

receiving said principal program at a central location; and

decoding said embedded watermark at said central location.

4. (Previously Presented) A method for delivering a principal program and specific data related to said principal program to one or more subscribers, said method comprising the steps of:

determining whether said principal program includes an embedded watermark;
decoding said embedded watermark from said principal program; and
transmitting, in response to said decoded watermark, said specific related data to said one or more subscribers through a communications network, the specific related data including at least one of an offer to said one or more subscribers, telephone number, World Wide Web address, coupon, and advertisement.

5. (Original) The method of claim 4 wherein said decoding step further comprises decoding said watermark at a receiver located at said one or more subscribers.

6. (Original) The method of claim 4 wherein said decoding step further comprises the steps of:

receiving said principal program at a central location;
decoding said embedded watermark at said central location; and
in response to said decoded watermark, transmitting said specific data related to said principal program to a receiving device associated with said one or more subscribers through a communications network.

7. (Original) The method of claim 6 wherein said watermark includes a pointer to said specific related data stored in a database, further comprising the step of retrieving said specific data from said database prior to said transmitting step.

8. (Original) The method of claim 6 wherein said watermark comprises said specific related data.

9. (Original) The method of claim 6 wherein said central location is a re-broadcaster of said principal program to said one or more subscribers.

10. (Original) The method of claim 9 wherein said re-broadcaster is the head-end office of a cable provider.

11. (Original) The method of claim 9 wherein said re-broadcaster is a satellite broadcast transmitter station.

12. (Original) The method of claim 9 wherein said re-broadcaster is an Internet service provider.

13. (Original) The method of claim 6 further comprising the step of:
appending demographic data to said secondary specific related data prior to said transmitting step, wherein said transmitting said specific related data includes transmitting said demographic data.

14. (Previously Presented) A communications system for delivering specific data related to a principal program, to one or more subscribers receiving said principal program, comprising:

a decoder for decoding a watermark embedded in a principal program, wherein said watermark contains data from which said specific related data may be identified, the specific related data including at least one of an offer to said one or more subscribers, telephone number, World Wide Web address, coupon, and advertisement; and

delivery means for delivering said specific data related to said principal program to a receiving device associated with said one or more subscribers in response to the decoded watermark.

15. (Previously Presented) A communications system for delivering specific data related to a principal program, to one or more subscribers receiving said principal program, comprising:

a decoder for decoding a watermark embedded in a principal program, wherein said specific related data is contained within said watermark, the specific related data including at least one of an offer to said one or more subscribers, telephone number, World Wide Web address, coupon, and advertisement; and

delivery means for delivering said specific data related to said principal program to a receiving device associated with said one or more subscribers in response to the decoded watermark.

16. (Original) The system of claim 14 or 15 wherein said delivery means for delivering said specific related data in an ADSI server and said receiving device is an ADSI device.

17. (Original) The system of claim 14 or 15 wherein said delivery means for delivering said specific related data is an IP server and said receiving device is an Internet enabled application running on a web enabled device associated with said one or more subscribers.

18. (Original) The system of claim 14 or 15 wherein said delivery means for delivering said specific related data is a radio transmitter.

19. (Previously Presented) The system of claim 18 wherein said receiving device is an FM radio receiver.

20. (Original) The system of claim 18 wherein said receiving device is a wireless telephone.

21. (Original) The system of claim 18 wherein said receiving device is a pager.

22. (Original) The system of claim 18 wherein said receiving device is a remote control device.

23. (Original) The system of claim 14 or 15 wherein said delivery means for delivering said specific related data is a television broadcast transmitter.

24. (Original) The system of claim 14 or 15 wherein said delivery means for delivering said specific related data is a set top box.

25. (Original) The system of claim 14 or 15 further comprising:

a transmitter for transmitting said principal program with said watermark embedded therein from a point of origin to a destination.

26. (Original) The system of claim 25 further comprising:
delivery means for delivering said principal program to said one or more subscribers.

X. EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title, nor has any other evidence been entered by the examiner and relied upon by appellant in the appeal. As such, Appellants have omitted the Evidence appendix under 37 C.F.R. § 41.37(c)(1)(ix).

XI. RELATED PROCEEDINGS APPENDIX

Presently, there are no related proceedings pursuant to 37 C.F.R. § 41.37(c)(1)(ii).